



JANE SWIFT
Governor

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WESTERN REGIONAL OFFICE

BOB DURAND
Secretary

LAUREN A. LISS
Commissioner

Working Draft

**Process for Addressing Residential Properties
Which may have received Fill Materials
From the General Electric Company**

**July 19, 2000
Revised September 25, 2001**

Introduction:

The Massachusetts Department of Environmental Protection (DEP) is clarifying and revising its process for communicating with and involving owners of properties in and around Pittsfield that may have received contaminated fill materials that originated at the General Electric (GE) facility. These revisions are not intended to change the requirements of any Administrative Consent Order or the Massachusetts Contingency Plan (MCP).

The purpose of this document is to outline the process that DEP will use for the GE/Pittsfield Residential Fill Property Project. By issuing this document, DEP intends to improve communications between property owners, GE, and DEP, and to clarify a property owner's opportunities to provide input to DEP and GE as his/her property moves through investigation/cleanup. The process outlined below is flexible; it may be modified on a case-by-case basis, as the relevant parties agree.

DEP does not address specific access agreement language or compensation issues in this document, as these are matters initially between the property owner and GE. In existing and proposed revised Administrative Consent Orders, GE is required to make a good faith effort to obtain access to perform response actions.

This information is available in alternate format by calling our ADA Coordinator at (617) 574-6872.

436 Dwight Street • Springfield, Massachusetts 01103 • FAX (413) 784-1149 • TDD (413) 746-6620 • Telephone (413) 784-1100

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I. Determining Which Properties Get Sampled

A. Initial Notice

Upon initial notice to or from a property owner that his/her property may contain contaminated fill, DEP will provide the owner with general information about PCBs, a “Question and Answer” document regarding the GE/Residential Fill Property Project (Q&A), a summary of this “process” document, and a list of DEP, GE and local citizen group contacts. DEP will provide any or all of this information to any interested party upon request.

B. DEP Review

Upon being contacted, DEP reviews all available information regarding a property, and makes an initial decision as to whether there is credible information that fill from GE’s Pittsfield facility (“GE fill”) was brought to the property. If the initial caller is not the current property owner, DEP will contact the current owner to discuss the information. DEP will identify whether the property warrants sampling. Typically, the properties fall into one of three general categories:

	General Categories of Information	DEP Determination of Next Steps
1.	Credible information of GE fill on the property (including, but not limited to, first-hand knowledge, observation of certain types of GE-related debris in the soil, or other credible information).	For properties that have credible information of GE fill, DEP sends a “Request for Evaluation/Investigation” letter to GE indicating the need to evaluate the information and sample the property.
2.	Obvious or likely fill on the property, but not necessarily linked to the GE facility (including, but not limited to, observation of residential trash or coal/wood ash debris in soil, indication of fill by the lay of the land).	For these properties, DEP decides the likelihood that fill material came from the GE facility, and refers some properties with a likely GE connection to GE for evaluation/investigation. Some properties may not be immediately referred, as DEP gathers more information. Some properties are not referred to GE because of a lack of information (See 3 below).
3.	No knowledge of fill on the property, but caller is concerned and wants to have property sampled to be sure.	Most of these properties are not referred to GE, unless additional information is discovered. These remain in DEP’s database, and DEP informs the owner that DEP will not require sampling at this time.

For any property not referred to GE (and not sampled by DEP or the U.S. Environmental Protection Agency [EPA]), DEP will provide the property owner with information on contacting the Berkshire Environmental Fund (BEF) for sampling. BEF was established in 2000 as a result of a settlement agreement between the Commonwealth of Massachusetts and GE. BEF funding is available for Community Improvement Grants, Educational Grants, and Sampling Grants.

C. Upon DEP's referral to GE

1. Interview

GE will schedule a meeting at the property with DEP, GE, and the property owner (and the initial caller if not the property owner) to interview the property owner and inspect the property. GE provides, in writing, to DEP the information collected at the meeting, which typically includes a standardized interview form completed by GE, based on the interview, and reviewed and signed by the owner.

2. GE's Sampling Determination

After the interview meeting, GE will determine whether it believes there is sufficient credible evidence of GE fill on the property and, if so, will sample the property. For any property where GE questions the level of credible information of GE fill and declines to sample after the interview process and discussions with DEP, if DEP still believes there is credible information of GE fill on the property, DEP will either require GE to sample, request EPA to sample, and/or will perform the sampling itself. If PCBs are present at levels greater than 2 ppm, DEP will generally require GE to continue the investigation. DEP will inform the owner of these events.

II. Planning and Scheduling Sampling:

When GE samples a property:

- A. GE will submit an initial sampling plan to DEP and the property owner for DEP's approval. DEP will typically provide the owner 10 days to submit his/her comments.¹ If sample locations or depths do not correspond with the owner's areas of concern, or the owner has any other comments, the owner should comment to DEP within the 10-day comment period. DEP will incorporate the comments, as appropriate, into DEP's approval of the initial sampling plan.
- B. Upon receiving approval from DEP (such approval may be verbal), GE will schedule the sampling crew, call Dig Safe, and obtain Conservation Commission approval for sampling (if necessary). Also, it has been GE's practice to send the owner a proposed access agreement to allow GE and its contractor access to the property for sampling purposes only. GE will notify the property owners at least 24 hours in advance of the sampling crew arriving on the property. The property owner may request more advance notice if they so desire.
- C. Sampling generally takes place within one month of DEP's approval of the sampling plan.

¹ DEP will consider all comment periods (for property owners referenced in this document) to start on the day after the date of the relevant document.

- D. GE will provide at least seven (7) days notice to a property owner if the property is reasonably expected to be discussed at a Conservation Commission meeting or other municipal or public hearing. DEP will notify the property owner at least seven (7) days prior to any such meeting held by DEP.

III. Reporting and Review of Sampling Results

Sample results are reported as follows:

- A. For all properties sampled, GE will generate a report and a map of the property with the PCB data and sample locations shown on the map, and a written description of the sampling event. This report is sent to DEP and the property owner, generally within 45 days of the samples being collected. GE will attach a cover letter with the sample results sent to the property owner, and a short description of what step(s) GE proposes to take next. DEP will provide the owner a 10-day comment period from the day the owner receives the plan in which to provide comments to DEP.²
- B. Within the 10-day comment period, DEP will call the property owner to discuss the results. If additional sampling is necessary, DEP will discuss the proposed sample locations with the property owner.
- C. DEP will incorporate the property owner's comments, as appropriate, into DEP's approval of the second sampling plan. DEP may verbally approve this plan, with or without modifications, and will do so as soon as possible after receipt of the property owner's input or the 10-day comment period, whichever comes first.
- D. If PCBs are not detected over 2 ppm in any sample, DEP typically requires no further sampling. In that event, the owner will have a 10-day comment period to provide comments to DEP. Nonetheless, even if no additional sampling or other response actions are required, DEP would require additional sampling if and when new information is discovered which would indicate that an area of potential fill was not sampled adequately.

IV. Delineation of PCB Contamination

The above process of sampling and reporting may be repeated until DEP believes the extent of PCB contamination over 2 ppm is defined at the property. For an average-sized residential property, this may involve three (3) or four (4) separate sampling events, unless the initial sampling covers the entire property. If sampling shows contamination on adjacent properties, the sample reports and plans may be grouped together, so a property owner may continue to get sample reports showing results on these adjacent properties, even though sampling on his/her own property may be completed.

² If PCBs are detected at over 10 ppm in a surficial soil sample (the sample closest to the surface within 0 –12" from grade), DEP and/or GE will call the property owner (prior to GE's written report) to explain the results and discuss what activities will follow (typically, generation of a written report and additional sampling).

V. Evaluating PCB Data and Averaging

- A. When the extent of PCB contamination has been delineated on a property, GE determines (subject to DEP approval) if the average PCB levels are above 2 ppm in two (2) depth intervals (the “exposure areas”): 1) the top 1’ of soil; and, 2) depths greater than 1’ below grade to the bottom of the contamination.
- B. If the average PCB level is below 2 ppm in each of the two exposure areas, and there are no “hot spots” as defined in the MCP, GE may submit a Class B Response Action Outcome (RAO) statement to DEP with a copy to the property owner. A Class B RAO or a No Further Action Letter (NFA) means the cleanup standard is already met without performing further response actions, and that the property is safe for unrestricted residential use. Prior to DEP’s decision whether to approve the RAO, DEP will provide a 30-day comment period for the property owner to contact DEP with any comments. Upon request, DEP and GE would meet with the property owner to discuss the RAO. DEP will approve or deny the RAO submittal after the 30-day comment period. DEP will send a copy of its decision to the property owner.
- C. If the average PCB level is above 2 ppm in either depth interval, or there is a hot spot, GE will submit a Remedial Action Work Plan (RAWP) for soil removal to meet DEP’s cleanup standard. For PCBs, the cleanup standard is an average of 2 ppm PCBs in both exposure areas. DEP will provide the owner with 10 days to comment on the RAWP prior to any DEP decision to approve it. DEP will also call the property owner to ask if the owner has any comments or questions. The RAWP will have proposed sample locations for non-PCB contaminants, and DEP may verbally approve these sample locations, with or without modifications, as soon as possible after discussing the locations with the property owner. DEP will approve, conditionally approve, or disapprove the RAWP, as appropriate.

VI. Pre-mobilization Meeting(s)

After DEP approves a RAWP, but before any excavation work, GE will schedule a pre-mobilization meeting with the property owner and DEP to discuss the proposed remediation, logistics, restoration details, and to answer any questions. If significant issues remain unresolved after one pre-mobilization meeting and the subsequent documentation process, DEP may attend any additional meetings, answer questions, and/or take other appropriate steps to help resolve those issues.

The pre-mobilization meeting usually results in a list of restoration items to which GE and the property owner agree. GE confirms in writing the list of restorations, and the list may be referenced in any access agreement that the property owner and GE agree upon for the work on the property (this would be separate from a previous access agreement for GE to conduct sampling).

VII. Remediation/Restoration

- A. Remediation work is scheduled and implemented after DEP approves the RAWP and GE obtains any necessary Conservation Commission permits. When the rough backfilling of excavated areas is completed, GE’s contractor completes the final

restoration work, including lawn replacement, plantings, trees, etc. DEP staff inspects the work regularly during remediation, restoration, and upon completion of restoration work. The property owner may request a meeting at the property at any time before, during and after the remediation and restoration work. DEP may temporarily halt work, if necessary, to address any serious matters. DEP encourages property owners to call DEP or GE immediately if a problem is perceived by the property owner at any point in the process.

- B. GE will make a reasonable effort to determine the drainage characteristics of an owner's property prior to remediation work, and should assure that the drainage of the restored property is comparable to the conditions that existed prior to remediation. If drainage at the property was not adequate prior to remediation, the property owner may work with GE to decide on what improvements, if any, may be performed during restoration work, although GE is not obligated to improve the drainage characteristics on a property over pre-remediation conditions.

VIII. Final Inspections, Final Documentation/RAO

- A. A final inspection/meeting will be scheduled soon after the majority of the restoration work has been completed. At a minimum, GE's representatives should be present, and DEP will attend if requested to do so by the property owner or GE. Any outstanding issues will be documented and followed up by the appropriate contact person.
- B. After cleanup and restoration are complete, GE will submit a Class A RAO statement to the property owner and DEP, for DEP's approval. The Class A RAO is the comprehensive, final documentation required by DEP for a property that is cleaned up, and it documents that any GE fill-related contamination remaining after the cleanup presents no significant risk to human health or the environment. Prior to DEP's decision whether to approve the RAO, DEP will provide the owner with 30 days to comment. DEP will approve or deny the RAO submittal, as appropriate, after the 30-day comment period. DEP will send a copy of its approval letter to the property owner.

IX. Periodic Inspections of Restored Properties

GE will inspect all plantings, trees, lawns, driveways, sidewalks and any other restored items at least two (2) times per year (spring and fall) for two (2) years after the completion of the project. GE will notify the property owner prior to the inspection, and will schedule the inspection so that the property owner can be present, if the property owner so desires. If property owners observe problems with the restored items between inspections, they are encouraged to report these observations to GE or DEP, as soon as possible, and to request that a GE representative meet with the property owner and inspect the property. DEP will attend these meetings and inspections if requested by the property owner or GE.

X. Dispute Resolution

If GE invokes the Dispute Resolution provisions of the Administrative Consent Order (ACO) specific to a property owner's site, and the owner wants to participate in DEP's

resolution of the dispute, DEP will accommodate the owner's input, as appropriate, on a case-by-case basis (e.g., the owner's submission of written comments to DEP and/or by verbal comments conveyed during a meeting with the owner) consistent with the ACO process. Also, if a property owner disagrees with a DEP decision or proposed decision after having commented and discussed the matter with DEP, and desires further DEP review, DEP will provide the owner with an opportunity to review such decision with DEP senior management.